

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAYCOB TYLER KUTZERA,

Defendant.

Case No. CR-17-48-GF-BMM

ORDER

Defendant Jaycob Kutzera's (Kutzera) Unopposed Motion for Postponement of Trial and Extension of All Deadlines (Doc. 19), is now before the Court. The Government has no objection.

Kutzera states in his motion that his counsel needs additional time for additional offsite review of discovery and the possibility of an expert witness. Because of these factors, a continuance of the trial in this matter is warranted.

A district court may grant a continuance and exclude the time period of the continuance from the calculation of the speedy trial date when "the ends of justice served by [the continuance] outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. §3161(h)(7)(A). In determining whether an "ends of justice continuance" is appropriate, a district court must consider, inter alia, whether the failure to grant the continuance will result in a miscarriage of justice; whether the case is so unusual or complex that it is unreasonable to expect

adequate preparation within the time limits imposed by the Speedy Trial Act; and whether the case, while not complex or unusual, would nonetheless deny counsel the reasonable time necessary for effective reparation. *Id.* §3161(h)(7)(B). An “ends of justice continuance . . . must be specifically limited in time [and] must be justified on the record with reference to the facts as of the time the delay is ordered.” *United States v. Lloyd*, 125 F.3d 1263, 1268 (9th Cir. 1997). Any additional time is properly excluded under the Speedy Trial Act “only if the district court makes certain findings enumerated in [§ 3161(h)(7)].” *Bloate v. United States*, 130 S. Ct. 1345, 1351 (2010).

Kutzera is charged with 36 counts of sexual exploitation of a child in violation of 18 U.S.C. §2251(a). The government also seeks a criminal forfeiture. Kutzera faces a potential 30 years in prison if convicted. The crimes allegedly occurred on April 7, 8, 11, 2016, July 10, 11, 12, 2016 and October 1, 2016 in Cascade County, in the State and District of Montana, and elsewhere.

A continuance of the trial is appropriate under 18 U.S.C. §§3161(h)(7)(A), (B)(i) and (B)(ii). The ends of justice served by a continuance outweighs the interests of the Defendant and the public in a speedy trial. The failure to grant a continuance would deny Kutzera and his counsel the reasonable time necessary for effective trial preparation, resulting in a potential miscarriage of justice.

Accordingly,

IT IS HEREBY ORDERED Defendant's Unopposed Motion for Postponement of Trial and Extension of All Deadlines (Doc. 19), is **GRANTED**.
IT IS ALSO ORDERED that the final pretrial conference and jury trial set for December 4, 2017, are **VACATED**. The final pretrial conference is rescheduled for **Monday, March 5, 2018 at 8:30 a.m.** The parties are to report to the chambers of the undersigned. The jury trial is rescheduled for **Monday, March 5, 2018 at 9:00 a.m.** in the Charles N. Pray Courtroom at the Missouri River Federal Courthouse, Great Falls, Montana. Expert reports are due on or before **February 19, 2018**. The motions deadline is **February 5, 2018**. The plea agreement/notice of intent to proceed to trial deadline is **February 19, 2018**. The Jury Instructions and Trial Briefs are due by **February 26, 2018**.

All time between the date of this Order and March 5, 2018, shall be excluded for purposes of speedy trial.

DATED this 31st day of October, 2017.



Brian Morris
United States District Court Judge